

**VIA ECF**

Hon. Lorna G. Schofield  
United States District Court  
Southern District of New York  
Attn: Hon. Lorna G. Schofield, U.S.D.J.  
500 Pearl Street  
New York, NY 10007

Re: *Edelman v. NYU Langone Health System, et al.*,  
Case No. 1:21-cv-00502 (LGS) (GWG)

Dear Judge Schofield:

The parties write jointly pursuant to Rule I(B)(2) of this Court's Individual Rules and Procedures for Civil Cases (the "Individual Rules") to request an extension of the deadline to complete fact discovery set forth in paragraph 8(a) of the Second Amended Civil Case Management Plan and Scheduling Order (Doc. 54) (the "Scheduling Order") as well as the deadline to complete Plaintiff's deposition set forth in the Memo Endorsement (Doc. 61).

The parties are respectfully requesting an extension from November 15, 2021, to and including November 30, 2021, to complete all fact discovery. This is the parties' third request for an extension of this deadline and is necessitated by the fact that although the parties have been working diligently to conduct all depositions the parties have been met with scheduling issues. The parties will have completed all the depositions of the named defendants by the current November 15 discovery deadline.

With regard to the deposition of Plaintiff that was so ordered by the Court on October 21, 2021 (Doc. 61), Plaintiff subsequently advised that she is unavailable to be deposed on October 29, 2021. Based on Plaintiff's representation that she is unavailable to attend the deposition the parties have agreed to depose Plaintiff on November 19, 2021, subject to the Court's approval and if the Court grants the parties' request for an extension of time to complete fact discovery.

Depositions taken:

- Plaintiff's deposition, by Defendants, approximately 6½ hours, taken on September 20, 2021.
- Kathleen Pacina, by Plaintiff, completed on September 24, 2021.
- Defendant, Andrew Rubin, by Plaintiff, taken on September 27, 2021, continued and completed on October 25, 2021.
- Joseph Antonik, by Plaintiff, completed on October 7, 2021.
- David Kaplan, by Plaintiff, completed on October 26, 2021.

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Remaining Depositions Scheduled

- 11/11/2021: Defendant Joshua Swirnow, by Plaintiff
- 11/15/2021: Defendant Andrew Porges, M.D., by Plaintiff

Proposed Deposition Schedule

- 11/19/2021: Plaintiff's deposition by Defendants
- 11/22/2021: Kavini Mehta, M.D., by Plaintiff
- 11/29/2021: Miriam Ruiz, subpoenaed by Plaintiff (served on 10/26/2021)

As these requested extensions affect other scheduled dates contained in the Scheduling Order, the parties' new proposed dates are as follows:

<b>Date</b>	<b>Current</b>	<b>Proposed</b>
Deadline for completion of all expert discovery required by paragraph 9(b)	December 31, 2021	Friday, January 14, 2022 [45 days from the deadline for completion of all fact discovery]
Deadline to meet and confer on a schedule for expert disclosures required by paragraph 9(c)	October 15, 2021	Monday, November 1, 2021 [no later than one month before the deadline for completion of all fact discovery]
Deadline for the parties to submit a joint letter required by paragraph 13(b)	December 3, 2021	Tuesday, December 14, 2021 [14 days after the requested deadline for the close of fact discovery]

Furthermore, pursuant to the Scheduling Order requiring the submission of a joint status letter due by November 5, 2021, in accordance with Rule IV(A)(2) of the Individual Rules the parties provide the following details:

**(a) What discovery has taken place, specifically**

- (1) *What discovery requests have been propounded, who propounded each request and on what date,*

The parties have each served upon each other initial discovery pursuant to the Pilot Project Regarding Initial Discovery Protocols for Employment Cases Alleging Adverse Action (the "Protocols"). On May 17, 2021, Defendants served Defendants' First Request to Plaintiff for the Production of Documents, and Plaintiff served her First Set of Interrogatories and First Request for the Production of Documents on July 2, 2021.

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(2) *What responses were made, who made each response and on what date,*

Both parties served responses and document production pursuant to the Protocols. Plaintiff served her responses to Defendants' discovery demands on July 2, 2021. Defendants responded to Plaintiff's discovery demands on August 13, 2021.

(3) *The volume of documents produced, who produced the documents and when;*

Plaintiff produced 386 pages of documents on or about April 23, 2021, 205 pages of documents on September 19, 2021, 8 pages of documents on September 22, 2021, and 13 pages of documents on October 19, 2021. Defendants produced 947 pages of documents on a rolling basis from April 2021 through August 2021, and 143 pages of documents on a rolling basis in September 2021, totaling a production from Defendants of 1090 pages of documents.

**(b) The procedural history of the case to date, specifically**

(1) *What pleadings have been filed, who filed each pleading and on what date,*

Plaintiff filed her Complaint on January 20, 2021, and Defendants filed their Answer on March 22, 2021.

(2) *What motions, if any, have been filed, who filed each motion and on what date each motion was filed,*

Plaintiff filed a discovery motion on May 19, 2021, regarding discovery requests pursuant to the Protocols despite Defendants having already complied with. Defendants have filed two discovery motions, one on August 18, 2021, regarding the Stipulated Confidentiality Order, and the second on October 12, 2021, requesting additional time to depose Plaintiff.

(3) *What motions, if any, are currently pending and, for each pending motion, the date it was or is scheduled to be fully briefed; and*

No motions are currently pending.

**(c) The parties' plans to ensure that they meet the Court ordered discovery deadlines.**

The parties largely have cooperated in discovery thus far. As noted in the parties' joint letter dated October 8, 2021 (Doc. 48), the Court's interim deadlines need to be extended due to scheduling difficulties.

**Expert Discovery**

Based on Plaintiff's testimony on September 20, 2021, and documents produced thereafter on October 19, 2021, Defendants are stilling awaiting a signed and competed written authorization in connection with Defendants' request to obtains records relating to Plaintiff's alleged damages and are necessary to determine whether a medical expert or even a Rule 35 examination of

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Plaintiff is necessary. This also contributes to the need for an extension of the discovery schedule.

Accordingly, the parties request an extension of the fact discovery deadline to November 30, 2021.

The parties thank this Court for its time, attention, and consideration in this case.

Respectfully submitted,

Dated: Lake Success, New York  
October 28, 2021

Dated: New York, New York  
October 28, 2021

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